

Getting Your Project Up to Speed:

A Handy Guide to Meeting Bonneville's Environmental Requirements Before the Funding of Your Project

You think through and develop a project to improve fish or wildlife populations in the Columbia River Basin.

You submit a proposal and budget, through the Provincial Planning process, and receive favorable recommendations.

The Council considers and approves the project, and recommends that the Bonneville Power Administration fund it.

You think: "All I have to do now is hire the staff and look for the check in the mail."

What's wrong with this picture?...

Bonneville is a federal agency and must follow the law when it funds a project.

Bonneville can't fund a project unless it can show that the project will meet specific legal or environmental requirements.

To do so, Bonneville must have documentation from you, the project proponent, that certain actions have been taken and certain requirements met.

Bonneville uses this information to conduct an environmental analysis of the project: that analysis must be completed before you can begin.

The earlier Bonneville receives complete information from you, the sooner your project can move forward.

This brochure tells you:

- 1** What requirements must be met;
- 2** What you need to know and do;
- 3** What information Bonneville needs so that you and the agency may fulfill required responsibilities; and
- 4** Specific steps YOU can carry out to get your project up to speed.



What Requirements Must Be Met

Bonneville – and any Bonneville-funded projects – must meet obligations under the following Acts, Executive Orders, and other protections before it spends any money on a project:

The National Environmental Policy Act (NEPA) which requires federal agencies to consider the environmental effects of projects before they make a final decision to fund, approve, or carry them out

The Endangered Species Act (ESA) which lists and specifies protections for species that are in imminent or near danger of extinction

Essential Fish Habitat Requirements which requires National Marine Fisheries Service (NMFS) review of actions that will affect the habitat of certain managed fisheries

Acts protecting Cultural Resources including historic resources such as old buildings and railroads and prehistoric resources such as campsites and firepits

The Uniform Relocation Assistance and Real Property Acquisition Policies Act which ensures the fair and equitable treatment of persons who are displaced or whose real property is acquired due to a federal or federally assisted project

Land Audits identifying hazardous wastes or similar problems

Water Rights which are needed for projects that use surface or groundwater, even temporarily

Floodplains and Wetlands which are specially protected for the vital functions they perform

Public Involvement Bonneville must demonstrate for most projects that it allowed and considered public comment on actions it funds and carries out

These are the major requirements. (There are others that pertain in special cases; we will let you know if other requirements apply to your project.) When the needed information is in hand, Bonneville can decide who needs to be consulted, what level of environmental analysis is required, and how long this might take before your project can break ground.

What You Need to Know & Do

The earlier you start to work with us, the more efficiently the environmental process can proceed, and the sooner your project can get off the ground! We can't complete these steps without your cooperation.

NEPA

Regulations implementing the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 – 4370e, categorize projects by how likely they are to have any effects – especially any significant effects – on the environment. Bonneville implements NEPA by following the Council on Environmental Quality Guidelines, 40 C.F.R. §§ 1500-1508, and the Department of Energy NEPA regulations, 10 C.F.R. Pt. 1021. Below are some types of projects that you might propose and the normally required NEPA document for each. These discussions are organized to show you the process steps and the typical amount of time it takes to complete them. You can use this information to determine where your project might fall; then you can contact Nancy Weintraub, Bonneville's Environmental Team Lead for Fish and Wildlife, at (503) 230-5373 or at nhweintraub@bpa.gov for confirmation, or help if your project does not seem to fall within any of the categories. *Nancy will assign a Bonneville environmental specialist to your project: he or she will help you through the steps.*

Research Projects

NEPA document: *Categorical exclusion (CX)*. We would normally do a CX for research projects “that are directly related to the conservation of fish and wildlife resources and that involve only negligible animal mortality, habitat destruction, or population reduction.”

Process: Documentation is needed, and certain conditions must be met. There must be no adverse effects on Endangered Species Act (ESA)-listed species, Essential Fish Habitat requirements, floodplains/wetlands, cultural resources, and other environmentally sensitive resources. 10 U.S.C. Pt. 1021 Subpart D, Appendix B.

Time: Varies; usually a minimum of two months, unless there are no threatened or endangered species involved. Timing depends on whether surveys are

needed and what level of consultation must be undertaken for ESA-listed species. If listed species may be adversely affected, formal consultation is needed (usually six months or longer, unless the project proponent already has threatened and endangered species permits that can be used).



Side-channel fish rearing habitat created for a Bonneville-funded watershed project.

of the record of decision (ROD), the Bonneville specialist will prepare the Supplement Analysis.

If it does not meet these conditions, separate NEPA documentation must be prepared, in the form of an Environmental Assessment (EA) or an EIS (see next section).

Wildlife Mitigation Projects and Watershed Projects

NEPA document: *Supplement Analysis (SA)*. Wildlife and watershed projects can usually be covered by preparation of a Supplement Analysis that is tied to the existing Bonneville Wildlife Mitigation Program Environmental Impact Statement (EIS) or Watershed Management Program EIS. Appendix A of each of these EISs describes the types of projects covered. 10 C.F.R. § 1021.314(c).

Process: You must complete a Bonneville checklist documenting compliance with the conditions of the appropriate EIS. This includes documentation of compliance with ESA, Essential Fish Habitat regulations, public involvement, cultural resources, floodplains/wetlands, permitting, and so on. The checklist is available from Nancy Weintraub and the Appendix listing the types of projects covered can be found at the addresses below.

http://www.efw.bpa.gov/cgi-bin/PSA/NEPA/SUMMARIES/WildlifeMitigation_EIS0246

or

http://www.efw.bpa.gov/cgi-bin/PSA/NEPA/SUMMARIES/WatershedManagement_EIS0265

Your Bonneville environmental specialist can help you fill out this checklist. When the checklist is complete, you, the project proponent, must sign it.

The Bonneville environmental specialist reviews the checklist. If the proposed action is substantively addressed in either EIS and it meets the conditions

Time: Time frame is similar to that for a CX, usually a minimum of two months, depending on the need for surveys, ESA consultation, etc. and the amount of time it takes you to fill out and return the checklist.

Fish Production Projects

NEPA document: *Environmental Assessment (EA) or Environmental Impact Statement (EIS)*. Projects involving fish hatcheries, supplementation, acclimation, and so on usually require an EA; sometimes they require an EIS if they are fairly complex and/or will have significant environmental impacts. These projects also require public involvement, ESA, Essential Fish Habitat, cultural resources, flood-plains/wetlands, permitting, and other environmental clearances.

Process: Bonneville rarely carries out “in-house” environmental analysis on such projects. Either the project proponent (if qualified) carries this out with review and approval by Bonneville, or the work can be contracted to an environmental firm. An EA, and especially an EIS, are complex documents that must meet certain legal and environmental standards. They may require a biological assessment or a cultural resource survey, which take both time and professional expertise. *Your Bonneville environmental specialist can help you determine whether an EA or an EIS will be required, and advise you both on the best means to carry it out and the most likely time frame.* 10 C.F.R. § 1021.400 Subpart D.

Time: EAs usually take about nine months to complete. EISs usually take 18 months, but can take more if the project and issues are complex.

Note: If the costs of carrying out the necessary environmental steps must be contracted outside of Bonneville, these costs should have been factored into your project budget at the proposal stage. Call Nancy Weintraub at (503) 230-5373 to discuss these costs.



The Bald Eagle is one of the listed species we must address under the Endangered Species Act.

assessment must be prepared by a knowledgeable biologist; this step can be carried out by you or your staff, or by an outside contractor. Your BPA environmental specialist can provide guidance on preparing biological assessments.

ESA and Essential Fish Habitat Requirements

In addition to meeting the NEPA requirements, a project must also conform to other environmental requirements. These may increase the time estimates listed above.

It is wise to identify the need for these requirements early on, so that actions may take place simultaneously, and so that your proposed project startup is not delayed.

Endangered Species Act

The Pacific Northwest is home to numerous ESA-listed fish as well as listed plant and animal species. 16 U.S.C. §§ 1531 et seq. There is a prescribed order of steps you must follow to document whether your project might affect these species. *Unless we can document a “no effect” determination, work cannot begin until this requirement has been completed and a concurrence or biological opinion is issued by the National Marine Fisheries Service (NMFS) and/or the U.S. Fish and Wildlife Service (USFWS).*

Process: Determine what listed species are in the vicinity of your project (via a USFWS species list); determine whether each species is present or might be present in the vicinity of the project during the time you are working. If not, a biologist must document that finding, with a copy to Bonneville and to NMFS or USFWS. If they are/might be present during the time the project will take place, this is considered “may affect.” If you are doing work that will *directly* affect a listed species, you or BPA must obtain a Section 10 permit. If your project would *indirectly* affect listed species, a biological

Note: If, as part of this process, a plant or animal survey must be completed, additional time must be allowed: some listed plants can be positively identified only when they are blooming or snow-free. Consider the weather and terrain in your project area to determine the proper season and amount of time for any required surveys.

Note: The cost of preparing a biological assessment (if one is needed) must be included in the project budget.

Consultation: The biologist submits the biological assessment to Bonneville for evaluation and determination of effects. Bonneville submits the biological assessment to NMFS and/or USFWS, as appropriate. If the determination is “may affect, not likely to adversely affect,” Bonneville asks for concurrence from NMFS and/or USFWS. If the determination is “may affect, likely to adversely affect,” Bonneville asks for formal consultation. Fish and wildlife projects can have short-term adverse effects, even though the long-term effects are beneficial. These projects must still go through formal consultation. Once NMFS and/or USFWS are satisfied that they have all the information they need, they issue a Biological Opinion (BO) with an incidental take statement and Terms and Conditions: you and Bonneville are responsible for carrying these out.

Time: Variable: a minimum of two months for informal consultation; can be six months or more for formal consultation. Time must be allowed for: obtaining the species list; identifying species in the area; carrying out a survey (if needed) at the proper time of year; preparing the biological assessment; Bonneville’s review; possible request from NMFS or USFWS for additional information if what is provided is not adequate (rare). If concurrence is requested, NMFS/

USFWS generally issues the concurrence within 30-90 days. If formal consultation is undertaken, USFWS and NMFS are allowed 135 days (more than four months) to prepare and issue a BO.

Note: Occasionally, another agency will already have carried this process out for the same project, or your agency may have endangered species permits that cover the actions you are proposing. If this is true, you may be able to use that consultation or permit instead of completing the steps listed above. *Your Bonneville environmental specialist will help you determine whether this is possible.*

Essential Fish Habitat

The Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 et seq., as amended, requires that Federal agencies consult with NMFS on any activity that will adversely affect essential fish habitat. Inland, this includes all current and potential habitat for coho and chinook salmon – essentially the entire Columbia River basin below the dams or natural structures that completely block fish passage, regardless of whether the population is listed under ESA or fish are present. Additional species qualify in the estuary and along the coastline. This consultation should be included with the ESA consultation process. Your BPA environmental specialist can provide guidance on preparing Essential Fish Habitat assessments along with biological assessments.

Cultural Resources

Several laws govern Bonneville and project proponent responsibilities for cultural resources. These include the National Historic Preservation Act, 16 U.S.C. §§ 470 et seq., American Indian Religious Freedom Act, 42 U.S.C. § 1996, and the Native American Graves Protection and Repatriation Act, 25 U.S.C. §§ 3001 et seq.

Process: Most projects will require that Bonneville consult with those tribe(s) that have used the area tradi-



Willow plantings and fish habitat in-stream structures constructed through Bonneville's Fish and Wildlife Program.

tionally to make sure that project actions would not adversely affect any sites sacred to them, burial grounds, or culturally important resources such as plants used for traditional foods or crafts.

If the project will involve any ground disturbance, the area must be surveyed for archae-

ological or historical sites. *Your Bonneville environmental specialist can identify contractors to do this work.*

Individual tribes will often have their own cultural resource staff do the surveys.

For land acquisition projects, Bonneville requires an overview survey and literature search before to the acquisition. This step is to ensure that we know whether there are extensive resources on the property that may require long-term management and funding.

Note: The cost of surveys (if they are needed) should also be included in the project budget.

Concurrence: Either the State Historic Preservation Office or the Tribal Historic Preservation Office (if the sites are on Tribal lands) must concur with the survey results. If significant cultural resources would be adversely affected, a Memorandum of Agreement must be negotiated between the parties.

Time: Variable, due to contracting, unanticipated discoveries, field-work timing and other unknowns. Ground surveys cannot be conducted with snow on the ground: as with ESA-listed species surveys, you will need to plan ahead in areas where there is snow on the ground most of the winter and you want to start work early in spring. If human remains or other significant archeological material is found it will take more time and funds to recover them.

Real Property Acquisitions

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601 et seq., requires that federal agencies provide certain

services when real property is acquired, either directly by a federal agency or by some other entity, that is at least partially financed by a federal agency. Real property includes land, easements, and anything either growing or built on them. This Act is meant to ensure the fair and equitable treatment of persons who are displaced or whose real property is acquired due to a federal or federally assisted project.



Bonneville often holds “open-house” public meetings for fish and wildlife projects.

Process: The process is fairly complex and may require property appraisals, negotiations regarding just compensation, and determinations concerning who is eligible for benefits under the Act. 49 C.F.R. Pt. 24. The Act requires that events occur in a certain order to ensure compliance: this sequence includes the time when negotiations are to occur, when the owner of the property receives notice of the acquisition, and the time period that a person is allowed to stay on the property. Given the time-sensitive attributes of the Act, it is important that you consult with your Bonneville project manager as early as possible to allow Bonneville to fulfill its obligations under the Act ensuring compliance.

Time: Variable, due to the need for possible negotiations and other determinations. The early involvement of your Bonneville project manager can speed the process along.

Public Involvement

Public involvement is an important Bonneville commitment, both to the citizens of the Pacific Northwest and to the provisions of NEPA. It's also common sense: if you take an action that affects people, and you don't talk with them first to see what they think, you are more likely to get resistance and anger. Bonneville's main concern is that the “interested or affected public” be notified and allowed to comment on specific projects before Bonneville makes a final decision to fund them.

Process: Public involvement is not an exact science. Defining the “interested or affected public” can be

difficult, and is best left to those who know the nearby area and the local public: perhaps you, the project proponent. However, we also recognize that this may be an unfamiliar or uncomfortable role for you.

With that in mind, here are some suggested minimal public involvement levels for different types of projects:

- ▶ *Watershed projects that are developed through a watershed planning process with demonstrated public involvement:* Notify local (county or city) planners and government officials (e.g. County Board of Commissioners), nearby landowners, affected Tribes, and state and federal fish and wildlife agencies.
 - ▶ *Watershed or Wildlife projects that have not been developed through a planning process and/or that have not demonstrated project-specific public involvement:* All of the above, plus notice to the general public soliciting public comment and ideas: notice in the local newspaper or radio, public open house or meeting, and/or mailings.
 - ▶ *Land or water rights acquisition projects:* All of the above, prior to purchase, plus, for land acquisition projects, public involvement on the subsequent management plan before it is finalized. *Note: nearby landowners must be notified prior to purchase and be given an opportunity to comment.*
 - ▶ *Projects going through an EA or EIS process:* Bonneville will take the lead on public involvement for these projects. It is built into the process.
- Bonneville has been carrying out an active public involvement program for more than two decades. Here is some help we can offer you:
- ▶ The Bonneville Fish and Wildlife project manager will work with you to develop a public involvement process that will meet all parties' needs. Bonneville environmental specialists will be available for advice and/or services.

► To meet NEPA needs, the public involvement process must ensure that the affected public has an opportunity to comment on the project (even for sensitive cases such as land purchase). Bonneville environmental specialists will make the decision on the adequacy of public involvement, in consultation with General Counsel and the Fish and Wildlife project manager.



Work in a stream requires extensive permitting and coordination with federal, state, and sometimes local agencies.

Time: Usually less than 30 days for a Phase I Environmental Land Audit. However, we strongly recommend that you ensure that the Phase I is started as early as possible to avoid delays if hazardous substances are present.

Environmental Land Audits

If the project requires that real property, an easement, or lease of land be acquired, a Phase I Environmental Site Assessment (Phase I) must be completed. The Phase I aims to help determine whether any hazardous substances or petroleum products are present, or likely to be present on a property, and whether these substances are being released into structures on the property or into the ground, groundwater, or surface water of the property.

Process: A Phase I can be initiated by contacting the Bonneville Fish and Wildlife project manager. The requests are then forwarded to Fred Walasavage, Bonneville's Environmental Land Action Coordinator, for completion. The American Society of Testing and Materials, Standard Practice for Environmental Site Assessments (E 1527-00 and E 1528 00) is used as a general guideline for completing the Phase I. That process usually includes an on-site inspection, review of existing data, interview with owner or project personnel, and review of federal, state, and local record sources. Findings, conclusions, and recommendations are provided in a report form. If a Phase I has previously been completed by a non-Bonneville entity, the Bonneville Environmental Land Audit Coordinator is still required to review the report. If environmental sampling or further investigation (Phase II) is required, a scope of work and cost estimate are provided.

Other Requirements/Permits

Any work carried out in waters (such as rivers, streams, or wetlands) has the potential to interrupt flow, reduce water quality, and disturb aquatic and land-based organisms.

Process: If work will be done instream, instream work permits must be obtained from the appropriate state agency(ies). If the work will involve fill in a wetland or in waters of the U.S., a Section 404 permit (Clean Water Act, 33 U.S.C. § 1344) must be obtained from the U.S. Army Corps of Engineers. These permits are usually obtained by you, the project proponent. If the project will include the use of surface or groundwater, even for a flow-through system, water rights must be obtained from the appropriate state agency. Working with Bonneville's Land staff, through your Bonneville project manager, can sometimes be advantageous in obtaining water rights. Requirements vary by state.

Time: Variable. Instream work and Section 404 permitting process are integrated in some states (Washington, Oregon), but there are several agencies involved, so the process can take several months. Water rights permits can take years to obtain, so it is good to plan as far ahead as possible. Demonstrating that the project has a benefit to fish can sometimes speed up the water rights process.

What We are Doing to Help Get Your Project Up to Speed

We realize that the need to get projects going is increasing but so is the complexity of environmental regulations and permitting processes. To help relieve some of this bottleneck, we are continuing to look at ways to speed up our and other agencies' reviews of fish and wildlife mitigation projects:

- ▶ We have already completed and are implementing the Wildlife Mitigation Program EIS and the Watershed Management Program EIS, which has reduced reviews for many projects from an Environmental Assessment level to a checklist process that you control.
- ▶ In June 2001 we sent out a draft Fish and Wildlife Implementation Plan EIS to cover fish production and other types of projects not yet covered by the other two EISs.
- ▶ We are working with USFWS and NMFS on a programmatic biological assessment for the entire fish and wildlife program; that assessment should eliminate or greatly reduce the threatened and endangered species consultation process for projects.

We will keep you posted on these efforts, and update this brochure as these new tools are completed and implemented.

What You Can Do to Get Your Project Up to Speed

Please use this section as a handy checklist for steps you can take to smooth the way for project start.

- 1** Check the date of this brochure (see below) to make sure it is current.
- 2** Discuss potential NEPA, cultural resources, and threatened and endangered species needs and costs for your project "up front" when preparing your proposal (contact Nancy Weintraub).
- 3** As soon as possible after being notified that your project has been approved, contact Nancy Weintraub to discuss strategies for environmental compliance and ask for an environmental specialist to be assigned. Call (503) 230-5373.

- 4** With your environmental specialist, develop a list of the necessary steps to meet the requirements.
- 5** Identify which steps will take the longest (and so should be started soonest), who is responsible for carrying out these steps, and what the desired target date is for completion.
- 6** If you will need a biological assessment, get detailed guidance from your environmental specialist or discuss getting a contractor on board to do this.
- 7** If you will need cultural resources surveys, contact your environmental specialist as soon as possible.
- 8** If you are acquiring real property, contact your Bonneville project manager as soon as possible.
- 9** Identify any stumbling blocks (e.g., missing information, inclement weather or severe terrain that might prevent surveys or other research, personnel shortages).
- 10** With your environmental specialist, assign tasks and set deadlines.
- 11** Plan ahead for public involvement. Recognize that getting the work done and having nearby residents and state and local groups understand what's being done are both important. Do not skimp on public involvement, or your project may be delayed at a later stage.
- 12** Check in regularly with your environmental specialist.
- 13** Document every step: write it down in detail and keep all information together. Backup electronic files on disks frequently.
- 14** *Remember that it takes longer to do it over than to do it right the first time.*

Date of Brochure: July 2001. If this brochure is more than a year old, please call Nancy Weintraub at (503) 230-5373 for an updated copy.

